

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

D. R. HORTON, INC.

and

MICHAEL CUDA,
an Individual

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) **Case 12-CA-25764**
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**RESPONDENT'S MOTION FOR EXTENSION OF TIME
TO FILE ANSWERING BRIEF TO AMICI BRIEF**

D.R. Horton, Inc., Respondent herein, respectfully moves for an extension of time from June 17, 2011, until July 18, 2011, to file its answering brief to the amici brief filed on May 18, 2011, by direction of the Board, and as grounds for same states:

1. The order of May 18, 2011, issued by the Deputy Executive Secretary by direction of the Board, granted the application of the Amici for leave to file their brief in support of General Counsel's exceptions, and provided that answering briefs are to be filed within 30 days thereof, i.e. on or before June 17, 2011.

2. The application of the Amici to file their brief was dated and filed with the Board on March 25, 2011. Although counsel for the Amici certified that they sent a copy of that application to the undersigned counsel for Respondent, in fact no copy was served on Respondent's counsel. Respondent's counsel did not learn of Amici's application until issuance of the Deputy Executive Secretary's Order of May 18, 2011, granting the application. Respondent's Counsel immediately brought this failure of service to the

attention of the Deputy Executive Secretary as well as Amici's counsel. The Deputy Executive Secretary advised Respondent's counsel that if Respondent found that it needed additional time beyond June 17, 2011, to file Respondent's answering brief in light of this failure of service, such request would be favorably considered.

3. The failure of Amici's counsel to serve Respondent's counsel with the application to file the amici brief as well as the brief itself, which was filed contemporaneously with the application on March 25, 2011, not only deprived Respondent of the opportunity to oppose Amici's application if it so desired but also deprived Respondent of the opportunity to study the amici brief and prepare to file an answering brief for the nearly two-month period that the application and brief were on file with the Board before the Amici's application was granted. Respondent's counsel now find themselves in the position of desiring to file an answering brief but being unable to do so by the current deadline in light of other commitments in their law practice and the fact that the amici brief is lengthy and extensive, came as a surprise to Respondent's counsel who did not receive timely notice of same when the brief was filed in March 2011, and takes positions even at odds with the position of the Acting General Counsel. For these reasons Respondent respectfully requests an extension until Monday, July 18, to file its answering brief.

4. Respondent's Counsel has asked Counsel for the Acting General whether they object to the granting of this motion but have not yet received a response and have decided to file this motion without waiting for their answer.

WHEREFORE, Respondent respectfully requests that the time for filing Respondent's answering brief to the amici brief be extended until July 18, 2011.

/s/

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Dated: June 13, 2011

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CERTIFICATE OF SERVICE

I certify that the Respondent's Motion for Extension of Time to File Answering Brief to Amici Brief was served by electronic mail on June 13, 2011 to the following:

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/s/

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